

CRIMINAL VICTIMIZATION & JUSTICE ADMINISTRATION IN INDIA

Gajendra Misher

Amity Law School, Amity University Rajasthan

Effects of Crime on Victim

Crime affects the life of the individuals and victim's families. It causes serious physical and psychological injuries to the victim and victim's family. Sometimes due to the consequences of the crime victim suffer financial loss. They feel isolated from the society and want to live alone. For example a victim always feel afraid to walk into darkness alone than a non-victim person. They fear of what happened with him, which always happened to be an abstract on his path to move forward or start a new journey. His past always reminds him what happen with him

In 2015, U.S. residents of age 12 or older experienced an estimated 5.0 million violent victimizations (rape or sexual assault, robbery, aggravated assault, and simple assault), according to the 'Bureau of Justice Statistics' (BJS) based on National Crime Victimization Survey (NCVS). The NCVS collects information on nonfatal crimes reported and not reported to police from a nationally representative sample of U.S. households. From 2014 to 2015, there was no statistically significant change in the overall violent crime rate. From 1993 to 2015, the rate of violent crime declined from 79.8 to 18.6 victimizations per 1,000 persons of age 12 or older.¹

Juvenile Victims

Juvenile victimization is a basic concept in which a child below the age of eighteen suffer crime like molestation, physical and mental abuse, sexual harassment and others heinous crime which effect the life of the victim. To rehabilitation of juvenile victims, we need to understand their mental conditions as well as their perspective regarding their problems and make a friendly and healthy environment around them so that they can feel safe and comfortable, willing to share their actual problem which makes their rehabilitation better.

For example, a victim of sexual harassment is more confidential and introvert in nature because what happen with him/her is heinous crime which not only affect him mentally but also physically. His/her broke out and find themselves surrounding by fear and lost their beliefs in humanity. To recover from that situation, they need special care and a trust worthy environment to share their problem and come up with it.

¹ www.bjs.gov

The national crime victimization survey reported that the average annual rate of violent crime continues to be highest among youth between the age of 16 and 19 who were victimized at a rate of 55.6 per 1000 persons²

To secure the rights of the children in India and protect from abuses and victimization or to empower children to give them education which is the basic tool to protect themselves given to them as their fundamental rights in where supreme court decision to make article 21-A as a fundamental rights. To give free and compulsory primary education is the right of every child between the ages of 6 to 14. Article 21-A state that “The state shall provide free and compulsory education to all children of the age 6 to 14 in such manner as the state may by law determine”

In order to secure the rights of children in India and to protect them from abusing, victimization or empower them, education must be provided them as their fundamental right. In Unnikrishnan’s case³ during 1993, Supreme Court made article 21-A to make education a fundamental rights of children. The article clearly states that “The state shall provide free and compulsory education to all children of age of 6 to 14 year in such manner as the state may by law determine”.

To insure the implementation of these provisions and make consonance between government policies and provisions of constitution in India a commission was made in March 2007.⁴

India also signed the united nation’s convention on the rights of the children in 1992 in order to secure the rights of children and to promote it globally and act was taken as the basic and necessary step towards the protection of rights of children.

Victimization of Women

During the past few decades, victimization of women has increased drastically and reason behind this can be lack of education and low mentality of people. In every 2 minutes a woman suffered sexual harassment. Many popular faces like Lady Gaga, Oprah Winfrey admit that they have suffered sexual harassment during childhood but due to fear and lack of education, they were not strong enough to stand up against it. Victimization of women includes abusing, sexual harassment, mental or physical torture killing them for dowry and domestic violence. All these crimes are mostly faced by a woman in India. Domestic violence mean a partner abuse another partner to gain his self-ambitions. According to the National Centre for Injury Prevention and Control, women experience about 4.8 million intimate partner-related physical assaults and rapes every year⁵ According to the National

² www.ncjrs.gov

³ Unni Krishnan, J.P. And Etc. vs. State of Andhra Pradesh And Ors. AIR 1993 SCR(1)594

⁴ The National Commission for Protection of Child Rights (NCPCR)2007

⁵ Centers for Diseases Control and Prevention (CDC)

Crime Victimization Survey, 232,960 women in the U.S. were raped or sexually assaulted in 2006. That is more than 600 women every day⁶

To protect the rights of women against domestic violence a major achievement in form of The Protection of Women from Domestic Violence Act 2005 was passed in parliament after a long struggle. This can be taken as a milestone in the way to protect women against domestic violence. Under this act, the first time definition of domestic violence was described, which includes physical, sexual, verbal and emotional abuse. Victim has right to get free legal aid and Relief and residence for safety and violation of order passed by protection officer by the respondent has resulted into 1 year imprisonment or 20,000 rupees or both.

To protect women from victimization in India many strict law has been made by the parliament to empowerment of women. To lead this efforts state legislature and local bodies were ordered to provide 33% reservation seats to encourage women power. In recently Gujarat government made a law to give 33% reservation to women in local police which was a historical step towards women empowerment. Many others government project like 'BETI BACHAO' is running for women empowerment.

Victimization of disabled person-

Disable persons are more victimize than a normal person because of their disabilities. People always take advantage of their disabilities to fulfill their self- motive. Disability in constitution includes cognitive disabilities (includes intellectual, development and severe learning disabilities) physical disabilities, sensory disabilities (includes blind, deaf etc) and psychiatric disabilities (disorder and mental illness).

According to NCVS in 2012 for both male and female rate of violent crime was greater for those with disabilities than the rate for those without disabilities. The rate for males with disabilities was 59 per 1000 compared to 25.1 per 1000 for males without disabilities while the rat was 61.8 per 1000 for females without disabilities⁷

To protect the rights of disabled persons, in1992 India adopted "The Proclamation on The full Participation and Equality of People with Disabilities in Asian and Pacific Region". As a signatory of this proclamation India's ministry of law justice and company affairs passed an act on January 1, 1996 names "THE PERSON WITH DISABILITES ACT 1995". According to this act child below 18 years come under this act. It also includes blindness, low vision, leprosy-cured hearing impairment, mental disorder and mental illness. Two committees were formed under this act one is Central Coordination committee and second is Central Executive Committee.

⁶ Bureau of justice Statistics

⁷ Ibid. table 5

Later in 2007 India signed U.N. Convention on Rights of Person with Disabilities to work further to protect the rights of disable person. To compete with this convention provision and based on the report of 'Sudha kaul Committee' Government brought 119 amendment to the rights of person with disabilities 2014 and will replace the person with disabilities act 1995 but bill is still pending in Rajya Sabha.

CRIMINAL JUSTICE ADMINISTRATION IN INDIA

The concept of criminal justice in India came into existence during the times of Manu. He described many forms of offences like murder, rape, breach of trust, theft, sedition, assault etc. Manu believe in "Divine theory" means king is the supreme and people are bound to follow his rules and regulations. King himself is an administrator of justice. He had power to decide matters relating criminal offence and give punishment on his own discretionary power.

Thought time changes so as society, people started denying king's law and started making their own as per their convenience. Thus new rule "Might is Right" started being followed. In the absence of a codified criminal law, anarchy was established in the society and people started demanding "eye for eye" as a form of justice. That is the time when many theories and principles came into justice administration like Divine theory, Social contract theory, Theory of natural justice etc.

In modern time we have codified laws. Essential objects of these laws are to protect society from unwanted criminal objects who want to break out the peace. For this very same purpose law holds the threat of punishments to prospective law breakers and criminals and laws which make suffer offenders by the prescribed punishments for their crimes.

In India for the criminal administration in justice we divide criminal law in two parts-
1.Substantive law

Procedural Law

Substantive criminal law defines the offences and punishments for the offences while procedural law administered the substantive law and provides the producer which leads to the justice in reality. In criminal administration in India we have two statues laws; 1. Cr.P.C. (Criminal Procedure Code1973) as the procedural law and I.P.C.(Indian Penal Court1860).

IPC was drafted during 1860 on the recommendation of the first law commission of India established in 1834 under the charter act 1833 under the chairmanship of Lord Thomas Babington Macaulay and its elements or rules were inspired by Napoleonic Code. IPC defines the definition of offence like murder, culpable homicide, offences against state, etc and also provides punishments for the offences through which Cr.P.C. follow the procedure.

The procedure for administration of criminal justice is defined under Cr.P.C. The procedure divided into four steps 1.investigation 2.inquiry 3.trial and 4.punishment. There are two types of offences, one is cognizable and second is non-cognizable offences. This is defined in the code cognizable offence under section 2(c). "Cognizable offence" means an offence for which, a police officer may, in accordance with the First Schedule or under any other law for the time being in force, arrest without warrant⁸ and this case is known as cognizable case. Section 2(1) defines non-cognizable offence. "Non-cognizable offence" means an offence for which, and "non-cognizable case" means a case in which, a police officer has no authority to arrest without warrant;⁹

Investigation is defined under section (h). "Investigation" includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorized by a Magistrate on his behalf¹⁰

Investigation is the primary elements in procedure of law in justice after the recording of FIR (First Information Report) in police station and under section 154(4) police has power to investigate the complaint of cognizable cases without the order of the police.

Having this codified procedure and strict laws criminal justice system failed to performed it's obligations according to National Crime Record Bureau (NCRB) data till 2013 the total number of convict prisoners was 1,29,608 and under trial prisoner was 2,78,503 in jailed of the country there were 12,406 Christian 11,666 Sikh, 57,936 Muslim and 1,92,202 Hindu¹¹

In case of Bhim Singh vs. Union of India ordered date 5/9/2014 court gave guide lines relating under trial prisoners. Has directed for effective implementation of section 346(A) of the code of Criminal Procedure by directing jurisdiction magistrate/chief judicial magistrate/session judge to hold one sitting in a week in each jails/prison for two months commencing from first October,2014 for the fulfillment of purpose of section 436(A).¹²

Due to the lack of numbers of judges and many reasons like corruption Indian criminal system failed to give justice.

⁸ Criminal Procedure Code of India 1973, Section2(c)

⁹ Criminal Procedure Code of India 1973,Section2(1)

¹⁰ Criminal Procedure Code of India 1973,Section2(h)

¹¹ National Crime Records Bureau (NCRB) 2013

¹² Writ Petition No. 310 of 2005 "Bhim Singh Versus Union of India & Ors